

Message Text

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ORIGIN L-01

INFO OCT-01 SS-14 ISO-00 ARA-06 EB-03 NSC-05 NSCE-00 SP-02

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DRAFTED BY L/ARA - SMSCHWEBEL:FWILLIS:LEE

APPROVED BY ARA - HWSHLAUDEMAN

EB/IFD/OIA - STEBBING

EB/ORF/FSE - DHART

ARA/AND/E - JAALLITTO

ARA/ECP - DTAHER

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O R 032212Z SEP 76

FM SECSTATE WASHDC

TO AMEMBASSY QUITO IMMEDIATE

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L STATE 219401

LIMDIS

E.O. 11652: GDS

TAGS: ENRG, PFOR, EC

SUBJECT: GULF'S CONTROVERSY WITH GOE

REF: (A) QUITO 5950; (B) QUITO 6265

1. DEPARTMENT APPRECIATES REFTELS AND UNDERSTANDS AMBAS-
SADOR'S CONCERNS ABOUT EXACERBATION OF CONFLICT BETWEEN
GULF AND GOE, AND POTENTIAL FOR ADVERSELY AFFECTING GOE-USG
RELATIONS. RE PARA FIVE REFTEL A AND PARA SIX REFTEL B,
AT THIS STAGE, IN ADVANCE OF A DEPARTMENTAL EXAMINATION OF
THE PRECISE ISSUES POSED BY GULF'S CONCESSION ARRANGEMENTS
AND APPLICABLE LAWS, INCLUDING ACTION TAKEN BY BOTH GOE
AND GULF THEREUNDER, WE ARE NOT REPEAT NOT PREPARED TO IN-
DICATE TO GULF THAT IT SHOULD OR SHOULD NOT PAY SUMS OWED
GOE.

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2. A KEY QUESTION WOULD BE WHETHER, AS GULF ALLEGES, ECUADOR IS IN SUCH MATERIAL BREACH OF ITS OBLIGATIONS UNDER THE GOVERNING CONTRACTUAL ARRANGEMENTS THAT GULF IS LEGALLY ENTITLED TO WITHHOLD PERFORMANCE (AS BY WAY OF WITHHOLDING DEPOSITS). ANOTHER QUESTION IS WHAT ELEMENTS OF GOE LAW GOVERN THE COMPANY AND WHICH SANCTIONS OF WHAT LAW WOULD APPLY.

3. WHILE ANALYSIS OF THE MULTIPLE ISSUES COULD LEAD US TO

POSITION THAT WE WOULD BE UNWILLING TO SUPPORT GULF CLAIM AGAINST GOE BECAUSE OF IMPROPER WITHHOLDING OF CURRENT SIZEABLE SUMS DUE, BECAUSE OF ABOVE CONSIDERATIONS WE ARE UNABLE TO TAKE THAT POSITION AT PRESENT TIME.

4. WE WILL BE REPORTING ELEMENTS OF GULF'S EXPOSITION OF HOW IT SEES THE FACTS AND LAW WHEN GULF PRESENTS THEM TO US.

5. WOULD APPRECIATE EMBASSY CABLING TEXT OF ECUADOREAN LAW ON "CADUCITY" AND ANY INFO IT CAN FIND RE ITS ADOPTION AND INTERPRETATION, INCLUDING ANY CASES IN WHICH IT HAS BEEN APPLIED, AND EMBASSY'S VIEW AS TO WHETHER ITS APPLICATION IN GULF CASE WOULD BE NORMAL PROCEDURE OR DISCRIMINATORY APPLICATION.

6. FYI: GULF TELLS US THAT TALKS BETWEEN THE GOE AND GULF WILL BEGIN MONDAY, SEPTEMBER 6 IN QUITO TO DISCUSS A GOE BUY OUT OF GULF'S INTERESTS. GULF WILL BE REPRESENTED BY T.A. O'BRIEN; THE GOE BY MINISTER OF NATURAL RESOURCES VARGAS. GULF, HOWEVER, DOES NOT WANT THAT INFORMATION TO BE MADE PUBLIC SINCE GULF IS NOT CERTAIN THE TALKS WILL TAKE PLACE. THE OFFER TO HOLD THE TALKS WAS MADE BY VARGAS, BUT GULF DOES NOT KNOW WHETHER SUPREME COUNCIL PRESIDENT POVEDA AUTHORIZED THE TALKS, AND IS TRYING TO FIND OUT. IF THE DEPARTMENT GETS ANY PRESS QUERIES ABOUT GOE-GULF TALKS, IT WILL REPLY THAT SUCH QUERIES SHOULD BE DIRECTED TO THE GOE AND/OR GULF OIL COMPANY.

7. ALSO FYI: THE PRESIDENT OF GULF TOLD THE DEPARTMENT
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SEPTEMBER 3 (THROUGH NESTOR ORTIZ, GULF'S REPRESENTATIVE IN WASHINGTON) THAT GULF DOES NOT WANT TO EMBARRASS THE USG OR ITSELF, THAT IT PLANS TO KEEP THE DEPARTMENT COMPLETELY INFORMED ABOUT EVERY ASPECT OF THIS MATTER, AND THAT IT WANTS TO COOPERATE COMPLETELY WITH THE UGS. ROBINSON

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